

**Appeal brought on 20 November 2019 by the Federal Republic of Germany against the judgment of the General Court (First Chamber, Extended Composition) delivered on 10 September 2019 in Case T-883/16, Republic of Poland v European Commission**

**(Case C-848/19 P)**

(2020/C 27/33)

*Language of the case: Polish*

## **Parties**

*Appellant:* Federal Republic of Germany (represented by: J. Möller, D. Klebs, supported by H. Haller, Rechtsanwalt, T. Heitling, Rechtsanwalt, L. Reiser, Rechtsanwältin, and V. Vacha, Rechtsanwältin)

*Other parties to the proceedings:* Republic of Poland, European Commission, Republic of Latvia and Republic of Lithuania

## **Form of order sought**

The appellant claims that the Court should:

- set aside the judgment of the General Court of 10 September 2019 in Case T-883/16;
- refer Case T-883/16 back to the General Court of the European Union;
- order that costs be reserved.

## **Grounds of appeal and main arguments**

In support of its appeal, the appellant relies on five grounds of appeal:

**1. First ground of appeal: The principle of energy solidarity is not a legal criterion, and does not impose on executive bodies an obligation to act**

The principle of energy solidarity in Article 194 TFEU is, as a general guiding principal, a purely political notion and not a legal criterion.

The primary law principle of energy solidarity cannot give rise to specific rights and obligations for the European Union and/or for the Member States. In particular, no obligations flow from that abstract guiding principal for executive bodies, such as verification obligations on the European Commission as part of its decision-making.

On account of its abstract and indeterminable nature, the concept of energy solidarity is not justiciable.

**2. Second ground of appeal: The principle of energy solidarity was not applicable in the present case**

The principle of energy solidarity is purely a contingency mechanism, which applies only in exceptional cases and in restricted circumstances, and does not have to be taken into account in every decision of the European Commission.

The conditions required for application of the contingency mechanism in the context of contested Commission Decision C(2016)6950 are not satisfied.

**3. Third ground of appeal: The European Commission observed the principle of energy solidarity**

To the extent that the principle of energy solidarity is in fact applicable to contested Commission Decision C(2016)6950 (*quod non*), the European Commission observed the principle in arriving at its decision:

The European Commission took into account the effects on both the Polish gas market and the European gas market as a whole in arriving at its decision.

When examining the conditions under Article 36(1)(a) of Directive 2009/73/EC, it was necessary only to ensure security of supply as an expression of the principle of energy solidarity.

Security of supply in Poland was, and is, not at risk.

**4. Fourth ground of appeal: It was not necessary for the principle of energy solidarity to be referred to expressly in the decision**

It was not necessary for all of the reasons for contested Commission Decision C(2016)6950 to be mentioned explicitly. There are no procedural requirements specifying to what extent the European administration must give reasons for its decisions.

The statement of reasons for administrative measures need only indicate the aim which the measure pursues, and does not have to state all relevant legal and factual considerations.

The validity of the European Commission's decisions cannot depend on whether certain terms are contained in the decision.

**5. Fifth ground of appeal: Contested Commission Decision C(2016)6950 cannot be annulled simply on account of an alleged procedural error**

Even if contested Commission Decision C(2016)6950 had been unlawful on procedural grounds (*quod non*), that would not have led to it being annulled because substantively correct decisions are, in principle, not to be annulled under the second paragraph of Article 263 TFEU simply on account of a possible procedural error.

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**Appeal brought on 26 November 2019 by the Czech Republic against the judgment of the General Court (Seventh Chamber) delivered on 12 September 2019 in Case T-629/17 Czech Republic v Commission**

**(Case C-862/19 P)**

(2020/C 27/34)

*Language of the case: Czech*

**Parties**

*Appellant:* Czech Republic (represented by: M. Smolek, O. Serdula, I. Gavrilová, J. Vlácil, Agents)

*Other parties to the proceedings:* European Commission, Republic of Poland

**Form of order sought**

The appellant claims that the Court of Justice should:

- set aside the judgment of the General Court in Case T-629/17;
- annul Commission Implementing Decision C(2017)4682;
- order the Commission to pay the costs.